

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

AGENDA DATE: June 18, 2003

TO: Mayor and Councilmembers

FROM/PHONE: Mark Alan, Director, Human Resources Management/954-797-1169

PREPARED BY: El pagnier K. Hudson, Assistant Director, Human Resources Management

SUBJECT: Resolution amending the Town Administrator's Contract to restore the initial language of a three member majority vote of Town Council in the event of dismissal without cause and to provide a provision for a twelve (12) month severance package.

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING THE RESTORATION OF INITIAL LANGUAGE TO TOWN ADMINISTRATOR'S CONTRACT TO REQUIRE A MAJORITY VOTE OF TOWN COUNCIL IN THE EVENT OF DISMISSAL WITHOUT CAUSE; INCLUDING A PROVISION FOR A TWELVE (12) MONTH SEVERANCE; AMENDING THE EXISTING CONTRACT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Report in Brief: This resolution seeks to resolve the inconsistency between the executed Town Administrator's contract which currently requires a supermajority vote for dismissal without cause and the Town Council's reconsidered resolution which requires a regular majority for such dismissal. The proposed resolution amends the Town Administrator's contract by removing the requirement for a super majority vote for dismissal without cause, thus resolving the inconsistency. Additionally, this resolution amends the severance period and allows for the conversion of earned, accrued vacation leave, sick leave, and compensatory time into cash with disbursement at any time. The disbursement of earned leave and compensatory time at the time of separation of employment (the time at which disbursement would have been made prior to the inclusion of this provision in the contract) are based upon the then prevailing salary rate. Any disbursement of these benefits prior to the this time represents a potential cost saving to the Town since the salary rate at the time of disbursement may be less that the salary rate at the time of separation of employment.

PREVIOUS ACTIONS: None

RECOMMENDATIONS: Approval and adoption of this Resolution is recommended.

ATTACHMENTS: Resolution
Exhibit A

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING THE RESTORATION OF INITIAL LANGUAGE TO TOWN ADMINISTRATOR'S CONTRACT TO REQUIRE A MAJORITY VOTE OF TOWN COUNCIL IN THE EVENT OF DISMISSAL WITHOUT CAUSE; INCLUDING A PROVISION FOR A TWELVE (12) MONTH SEVERANCE; AMENDING THE EXISTING CONTRACT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to bring more stability to the favorable operations of the Town; and

WHEREAS, the Town wishes to operate optimally and in harmony toward the stated goals of the Council for the good of the residents and communities we serve; and

WHEREAS, the Town wishes to retain Thomas J. Willi as Town Administrator with a revision in the contract to require a majority vote of Town Council in the event of dismissal without cause with the caveat that said dismissal will result in a twelve (12) month severance package.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA

Section 1. That the Town Administrator's Contract be revised to require a majority vote of Town Council in the event of dismissal without cause and to include a provision for a twelve (12) month severance package.

Section 2. That the Town Administrator's Contract be revised per attached Addendum to Employment Agreement, "Section 3. Termination and Severance Pay," hereto attached as Exhibit A.

Section 3. This Resolution shall take effect immediately upon its passage and adoption.

MAYOR/COUNCIL MEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003

June 18, 2003 Addendum to Contract: Town of Davie and Thomas J. Willi, Town Administrator

Section 3. Termination and Severance Pay

- A. In the event Town Administrator is terminated without cause by the Council and provided that the Town Administrator is willing and able to perform his duties under this agreement, then in that event Davie agrees to pay Town Administrator a sum equal to not more than ~~nine (9)~~ twelve (12) months aggregate salary, benefits and deferred compensation, payable as follows:

- (1) A cash payment equal to one (1) month aggregate salary paid at time of termination.
- (2) Commencing with the first pay period subsequent to termination, an additional severance will be paid periodically as payroll for a period not to exceed ~~eight (8)~~ eleven (11) months. ~~Upon being reemployed full-time by another government employer, Town's obligation to pay severance pay shall cease, except that if the salary at the place of reemployment is less than that provided by Davie, then Davie shall pay the difference each month until conclusion of the periodic severance period.~~

Medical, dental and pension benefits shall continue until the expiration of ~~one (1) year~~ twelve (12) months from termination. Town Administrator shall also be compensated for all earned sick leave, vacation, holidays and compensatory time, and other accrued benefits to date as provided for herein. The Town Administrator may, at his request, convert all or any part of, accrued vacation, earned sick leave and compensatory time into cash and receive a cash disbursement from the Town at any time. In the event Town Administrator is terminated for cause, Davie shall have no obligation to pay the aggregate or periodic severance sum designated in this paragraph. For purposes of this agreement "for cause" shall mean conviction of any felony whatsoever or a misdemeanor directly relating to his powers, duties or privileges as Town Administrator, violation of the Town Charter or Resolution of the Town of Davie or any misdemeanor involving moral turpitude.

- (3) ~~Termination of the Administrator without cause shall require a super-majority vote of the Town Council.~~
- (4) ~~Notwithstanding an amendment to Section 3 of the Town Administrator's Contract establishing that an affirmative vote of four (4) Councilmember's is required to terminate the Town Administrator; in any suit brought by the Town Administrator for a breach of contract related to the Town Administrator's termination by a majority of the Town Council, the extent of the Town Administrator's redress is subject to the maximum liquidated damages equal to a sum equal to not more than nine (9) month's aggregate salary, benefits and deferred compensation as enumerated more specifically within Section 3 of the Town Administrator's contract.~~
- B. Davie shall give Town Administrator ninety (90) days notice of termination of this agreement without cause.
- C. ~~Council may decide to return Town Administrator to another administrative position subject to salary negotiations and agreement by both parties. In the event this provision is accepted, the Town would agree to pay three (3) months severance at the time of reassignment.~~

Approved

By _____
Tom Truex, Mayor

Thomas J. Willi, Town Administrator

Attest

Russell Muniz, Town Clerk

EXHIBIT A